

State of Kansas
Department of Health and Environment
Division of Environment
Bureau of Water

First Amendment to the
Intended Use Plan
for
The Kansas Water Pollution
Control Revolving Loan
Program

Final State Fiscal Year 2011

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I. INTRODUCTION

This First Amendment to the State Fiscal Year 2011 Intended Use Plan (IUP) is developed for several reasons, the primary purpose is to present the updated and expanded list of projects selected to receive funding with the FFY 2010 federal appropriation. The FFY 2011 federal appropriation for the Clean Water SRF program has not yet been provided by Congress, and so when this funding becomes available the IUP will be updated accordingly. This First Amendment also presents the additional Green Project Reserve selected projects to fully utilize the Federal funds targeted for this purpose as a result of the solicitation by KDHE. The revised and updated cross-collateralization procedures are presented in detail.

List of Projects

The Kansas Department of Health and Environment (KDHE) is continuing to develop loan agreements and provide funding to selected projects. The project at Pratt – Sludge Handling Improvements has qualified for Green Project Reserve (GPR) status by meeting the EPA requirements and the project information has been posted on the KDHE website as required by EPA procedures. Table 1 which follows below presents the updated list of “Projects Selected to Receive 2010 Funding”, the updated list of “Projects Selected to Receive FFY 2010 Funding for NPS Pollution Control”, and the updated “2010 Contingency List”. KDHE has “Reserved the Right” to use an amount equal to 4% of the FFY 2010 Cap. Grant amount for administrative costs from the FFY 2010 or future Cap Grants. KDHE continues to develop wastewater collection and treatment projects to receive available funding, with emphasis to develop the (GPR) aspects of these designs. Also, KDHE has conducted a solicitation of GPR design projects for non-point source (NPS) pollution control projects in January 2011. These efforts will continue to fully utilize the required 20% GPR funding goal.

TABLE I
KWPCRL PROJECT FUNDING

Projects Selected to Receive 2010 Funding

<u>Municipality</u>	<u>Proj. No.</u>	<u>Proj. Desc.</u>	<u>Est. Loan Amt.</u>
1. Assaria * (Match CDBG)	1903 01	WWTP Impvts.	510,000
2. Baxter Springs * (Match CDBG)	1755 01	WWTP Impvts.	700,000
3. Bonner Springs	1824 01	Eff. Reuse/WWTP (Potential GPR)	351,000
4. El Dorado	1827 01	Alt. Energy (GPR)	2,000,000
5. Hill City *	1801 01	WWTP Repl. (Green)	3,000,000

6.	Leon * (Match CDBG)	1914 01	Sewer Rehab	732,305
7.	Leoti * (Funded)	1822 01	PS Repl (Green)	740,000
8.	Stockton * (Funded)	1802 01	WWTP Repl. (Green)	4,300,000
9.	Troy (Match CDBG) (Funded)	1913 01	Sewer Rehab	270,800
10.	Walnut *	1910 01	PS Repl.	100,000
Interim Total				\$ 12,704,105

GPR Projects Selected to Receive FFY 2010 Funding for NPS Pollution Control

1.	Glacial Hills RC & D Holton	1881 01	----	\$ 191,310
2.	Pott. Co.	1860 01	----	535,212
3.	Glacial Hills RC&D Delaware R – Ph 3	1923 01	----	756,000
4.	Flint Hills RC&D	1921 01	----	779,300
Interim Total				\$ 2,261,822

These additional Non-Point Source Pollution Control projects are being funded from FFY 2010 to assure the required 20% of funds are provided to EPA Green Project Reserve qualifying designs. Additional projects may be selected throughout the year and if so will be presented in a future Amendment to this Intended Use Plan.

State Match Bonds (\$5M) and Lev. Bond Issue (\$60 M) – Completed December 2010

Funds Available for New Loans as of February 24, 2011 Including 2010 Cap Grant and Funds Available from Leveraging and State Match Bond Issue \$16 M

2010 Contingency List

<u>Municipality</u>	<u>Proj. No.</u>	<u>Proj. Desc.</u>	<u>Est. Loan Amt.</u>
1. Alden *	1766 01	PS Repl.	100,000
2. Arlington *	1771 01	I/I Corr.	300,000
3. Atchison (Dis)	1787 01	WWTP Impvts.	2,500,000
4. Bison *	1911 01	WWTP Impvts. (Green)	510,000

5.	Coolidge *	1703 01	WWTP Impvts. (Green)	400,000
6.	Douglass *	1788 01	I/I Corr.	300,000
7.	Edgerton *	1926 01	WWTP and Ints.	8,000,000
8.	Enterprise *	1922 01	WWTP Impvts. (Green)	1,000,000
9.	Fredonia - Ph. 2 *	1750 01	I/I Corr.	500,000
10.	Goodland *	1383 01	WWTP Impvts.	2,500,000
11.	Horton *	1665 01	WWTP Impvts.	1,727,300
12.	Independence (SE PS)	1915 01	PS Repl.	2,000,000
13.	Jo. Co. Lone Elm	1920 02	GP & LPS Collectors (GPR)	1,522,771
14.	Jo. Co. Lake Gardner	1920 01	GP & LPS Collectors (GPR)	9,028,609
15.	K. C. Plt. #1 (Dis)	1730 01	WWTP Impvts.	7,775,000
16.	K.C. - CSO (Ph 2)	1596 02	CSO Separation	15,000,000
17.	Leavenworth (Dis)	1729 01	WWTP Impvts.	6,648,000
18.	Liberal (Phase I)	1391 01	WWTP Impvts.	12,000,000
19.	Marion *	1924 01	Sewer Rehab	200,000
20.	Natoma *	1714 01	WWTP Impvts. (Green)	1,100,000
21.	Ottawa	1266 01	PS Repl, FM & Int.	5,000,000
22.	Pittsburg (Coll. Sys – SCADA)	1925 01	I/I Corr./Cont. (GPR)	250,000
23.	Rush Center *	1400 01	WWTP Impvts. (Green)	1,000,000
24.	Spivey *	1715 01	I/I Corr.	100,000
25.	Valley Falls *	1927 01	WWTP Impvts (Green)	500,000
26.	Woodston *	1770 01	WWTP Rehab. (Green)	<u>250,000</u>

Interim Total \$ 80,211,608

Total \$95,177,535

May 2011

* 5000 or Less Population

Please note, the projects on this Contingency List will be the first to be considered to receive funding from the FFY 2011 and FFY 2012 Federal Cap Grants.

Cross Collateralization

Between the 2 bond resolutions and the new indenture of the Kansas SRF programs, there are two methods for cross-collateralization to provide security for bond issues. The Kansas Public Water Supply Loan Fund (KPWSLF) originally issued bonds through the Kansas Development Finance Authority (KDFA) Bond Resolution No. 106 and the Kansas Water Pollution Control Revolving Loan Fund (KWPCRLF) originally issued bonds through the KDFA Bond Resolution No. 37. In 2006, Kansas Statutes were amended to allow assets of either fund to be used as revenue to secure payment of principal and interest of the corresponding fund.

The actual mechanism for this cross-collateralization is found in Section 805 of the KPWSLF Bond Resolution and Section 709 of the KWPCRLF Bond Resolution (excerpted below). The only funds allowed to be used as revenue for the corresponding program are excess revenue as determined after the annual bond principal payment and these funds can only be used by the corresponding program to prevent a leveraged bond default. Furthermore if any funds are used by the corresponding program they are to be paid back without interest once that program has excess revenues. No debt service coverage levels or reserve accounts from the corresponding program are presented to potential bond holders as security to secure the issue of bonds because there is no guarantee that the other program will be able to provide revenue to the cross-collateralization account or even provide such revenue in a timely manner to prevent a default.

"After all payments and credits required at the time to be made under the provisions of this Section and the preceding Sections, have been made, all moneys remaining in the Principal Account following the final Principal Payment Date in each Fiscal Year shall, subject to the delivery of a Projected Revenue Certificate prepared in accordance with the last sentence of this Section, be paid and credited to the DW Cross-Collateralization Account to the extent necessary to: (a) prevent a monetary default on the CW Leveraged Bonds, or to the extent permitted by the Federal Act and the CW Act, any other CW Bonds; (b) replenish the Bond Reserve Fund for the CW Bonds in accordance with the requirements of the CW Bond Resolution; or (c) make repayments of CW Transferred Deposits, without interest, to the CW Revenue Fund.

All moneys remaining in the Recycled Loan Account following any Payment Date, subject to the delivery of a Projected Revenue Certificate prepared in accordance with in the last sentence of this subsection (d), be paid and credited to the CW Cross-Collateralization Account to the extent necessary to: (i) prevent a monetary default on the DW Leveraged Bonds, or to the extent permitted by the Federal Act and the DW Act, any other DW Bonds; (ii) replenish the Leveraged Reserve Fund for the DW Bonds in accordance with the requirements of the DW Bond Resolution; or (iii) make repayments

of DW Transferred Deposits, without interest, to the DW Revenue Fund. To the extent that moneys in the Recycled Loan Account are not paid and credited to the CW Cross-Collateralization Account as set forth above.”

The new bond indenture, the Master Financing Indenture (MFI), was established in 2010 by KDFA Bond Resolution No.287 and combines both the KPWSLF and KWPCRF programs as one entity for the purpose of interfacing with the capital market.

All bonds issued in 2010 and after will be under the MFI. The entire MFI is structured as a cross collateralization mechanism as all interest revenues are pledged to the State Match bonds and all other revenues are pledged to the Leveraged Bonds.

The MFI interface provides for an easier understanding to bond holders as to how debt service will be paid. However, as indicated in Section 903 of the MFI, the KPWSLF and KWPCRF will maintain and operate the loan programs as separate entities with separate accounting of all loan disbursements, interest revenues, principal revenues, State Match debt service, Leveraged debt service, State Match bond issuance amounts, Leveraged bond issuance amounts, State Match bond proceeds, Leveraged bond proceeds, and any other fund or account established in the MFI.

In the event that cross-collateralization is used to pay debt service on bonds, KDHE accounting will show revenue from one program was needed to pay debt service of the other program. That amount will be treated as a loan (without interest) to be repaid once the borrowing program has available funds in its portion of the Program Equity Fund. In the unlikely event that State Match debt service could not be paid using the corresponding program's portion of interest revenues in the MFI, an amount necessary needed to pay the State Match debt service of the program would be transferred from the corresponding program's Service Fee account to the State Match debt service account (Service Fees are a interest component of the loan repayments). This will assure that the assets of one program are not used, even temporarily, to pay for the other program's State Match.

Furthermore, the MFI will not issue any bonds unless it can show that the program which receives bond proceeds can pay 100% of the debt service of the corresponding bonds (in other words, without using cross-collateralization), reference Section 208 (a) of the MFI.

VII. PUBLIC REVIEW AND COMMENT

A public hearing was held at 10 A.M. on April 5, 2011 in the Azure Conference Room, 4th Floor, Curtis Building, 1000 SW Jackson, Topeka, Kansas. The February 21, 2011, initial document was updated as a result of comments, with the final First Amendment document dated May 12, 2011.

APPENDIX I
Estimated Service Fee Income From the FFY 2010 Capitalization Grant

Est. Program Income Earned During the Grant Period – 07/01/09 – 06/30/15 \$125,000

Est. Program Income Earned After the Grant Period – 07/01/15 – 06/30/30 \$337,500

Est. Non-Program Income Earned From the FFY 2010 Capitalization Grant - \$0

Prepared by
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05/11/11
